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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES R. H. CHALLENGER, CAMERON FERSTAT,
ARUN K. IYENGAR, PAUL REED,
and KAREN A. WITTING

Appeal 2009-008151
Application 09/283,561
Technology Center 2100

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and
JAY P. LUCAS, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 16-26, 42-53, 55-60, and 75-81, which are all the remaining claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

Appellants' invention relates to a method for determining an order in which to construct objects. The method provides a plurality of objects. At least one of the objects includes a relationship with another object. The method also identifies at least one relationship between the plurality of objects, represents the relationship using a graph, and traverses the graph to determine the order in which to construct objects in accordance with the relationship and an update to one of the objects. Abstract.

Representative Claims

16. A method for publishing a plurality of objects comprising the steps of:

providing a plurality of objects, including compound objects;

partitioning at least some of the plurality of objects into a plurality of groups such that if two compound objects are constructed from at least one common changed fragment, then the compound objects are placed in a same group; and

publishing all objects belonging to a same group together.

53. A method for publishing a plurality of objects comprising the steps of:

providing a plurality of objects;

constructing at least one graph, the at least one graph including nodes representing at least some of the plurality of objects and edges for connecting nodes having relationships, at least some of the edges being derived from at least one consistency constraint;

finding at least one strongly connected component in the at least one graph; and

publishing a set of objects belonging to a same strongly connected component group.

Examiner's Rejections

Claims 16, 17, 42, and 43 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Darnell ("Using Macromedia Dreamweaver 1.2," Chapter 8, pp. 117-123, 1998).²

Claims 18, 19, 44, and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Darnell.

Claims 20-22 and 46-48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Darnell and Ferrel (US 6,199,082).

² Although both the Examiner and Appellants refer to the rejection's basis as § 102(e), Darnell is neither an "application for patent" nor a "patent." See 35 U.S.C. § 102(e). However, under the applicable preponderance of evidence standard, Darnell represents at the least an earlier "printed publication" in accordance with § 102(a).

Claims 23-26, 49-53, 55-60, and 75-81 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Darnell, Ferrel, and Cormen (“Introduction to Algorithms,” pp. 477-493, 1990).

Claim Groupings

Based on Appellants’ arguments in the Appeal Brief, we will decide the appeal on the basis of claims 16 and 53. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUES

(1) Have Appellants shown that the Examiner erred in finding that Darnell describes “partitioning at least some of the plurality of objects into a plurality of groups such that if two compound objects are constructed from at least one common changed fragment, then the compound objects are placed in the same group” as recited in claim 16?

(2) Have Appellants shown that the Examiner erred in finding that the combination of Darnell, Ferrel, and Cormen teaches “at least some of the edges being derived from at least one consistency constraint” as recited in claim 53?

FINDINGS OF FACT

We rely on the findings of fact made by the Examiner in the Final Rejection and the Examiner’s Answer.

PRINCIPLES OF LAW

Claim Interpretation

During examination, claims are to be given their broadest reasonable interpretation consistent with the specification, and the language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1369 (Fed. Cir. 2004) (citations omitted). The Office must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. *Id.* (citations omitted).

ANALYSIS

Section 102 rejection of claim 16

The Examiner finds that the term “plurality of objects” recited in claim 1 encompasses Web pages of a Web site as described by Darnell. The Examiner finds that the Web pages of Darnell that include multiple parts, or items, are “compound objects” within the meaning of claim 16. The Examiner finds that the edited library items of Darnell correspond to the claimed “changed fragments.” The Examiner concludes that Darnell describes the “partitioning” step of claim 16. Ans. 4-5.

Appellants contend that the Examiner improperly construed the “partitioning” step recited in claim 16. Appellants contend that the claimed “partitioning” step, when properly construed, relates to publishing objects for purposes of achieving consistency in the publication, not updating objects. According to Appellants, in the proper context of the claimed invention, the partitioning of objects into a plurality of groups is such that

objects having common changed fragments are grouped together. App. Br. 12-15.

Appellants have not provided a definition of the “partitioning” step in the claim or in the Specification that excludes the Examiner’s interpretation. In fact, the Examiner’s interpretation of the “partitioning” step appears consistent with the examples of “partitioning” provided in Appellants’ Specification. In the Summary of Claimed Subject Matter section of the Appeal Brief (Amended App. Br. 6), Appellants point to support for the “partitioning” step on page 11 of the Specification, which states:

Suppose that servables S1 and S2 both embed the same fragment f1. If f1 changes, updated versions of S1 and S2 must be published concurrently; otherwise, the site will look inconsistent. However, the consistency problem is worse than just determining if a set of pages all embed the same fragment. For example, suppose S1 and S3 both embed fragment f2. If f2 changes, updated versions of both S1 and S3 must be published concurrently.

Spec. 11:10-17. Appellants further state that if “fragment f1 is updated/changed, updated versions of S1 and S2 should be published concurrently, otherwise, the Web site will look inconsistent.” Amended App. Br. 4.

We interpret the term “changed fragment,” when read in light of Appellants’ Specification, as encompassing an edited library item as described by Darnell. We interpret the phrase “two compound objects are constructed from at least one common changed fragment,” when read in light of Appellants’ Specification, as encompassing two Web pages of a Web site that contain the same edited library item as described by Darnell. We interpret the phrase “partitioning at least some of the plurality of objects

into a plurality of groups such that if two compound objects are constructed from at least one common changed fragment, then the compound objects are placed in the same group,” when read in light of Appellants’ Specification, as encompassing finding pages of a Web site that contain a library item that needs to be updated as described by Darnell.

Appellants contend that the Examiner has failed to show that the “partitioning” step of claim 16 is inherently disclosed by Darnell. Because we find that Darnell explicitly describes the “partitioning” step within the meaning of claim 16, we find Appellants’ arguments (App. Br. 15-18) about lack of inherency unpersuasive.

Appellants further contend that Darnell does not describe “publishing all objects belonging to a same group together” as recited in claim 16. App. Br. 11. In particular, Appellants contend that the Examiner’s analysis fails to consider the proper context of the claim in that the partitioning of objects into a plurality of groups is such that objects having common changed fragments are grouped together, and objects belonging to a same group are published together. App. Br. 15.

Appellants’ contention appears based on the premise that because Darnell does not describe the “partitioning” step of claim 16, Darnell also does not describe the “publishing” step of claim 16. However, because we find that Darnell describes the “partitioning” step of claim 16, we find Appellants’ contention unpersuasive.

We sustain the section 102 rejection of claim 16.

Section 103 rejection of claims 18-26 and 44-52

Appellants have not provided arguments for separate patentability of claims 18-26 and 44-52, but rather rely on the arguments presented for claim 16. Therefore, claims 18-26 and 44-52 fall with claim 16.

Section 103 rejection of claim 53, 55-60, and 75-81

Appellants contend that the combination of Darnell, Ferrel, and Cormen does not teach “at least some of the edges being derived from at least one consistency constraint” as recited in claim 53. In particular, Appellants contend that the directed edges of an acyclic graph are not the same as edges derived from consistency constraints. Appellants conclude that there is no basis for the Examiner’s finding that edges of an acyclic graph inherently are derived from a consistency constraint for publishing objects. App. Br. 20-23.

The Examiner finds that the term “consistency constraint,” when read in light of Appellants’ Specification, encompasses any relationship or order that is imposed upon objects of web pages that will affect the publication of said web pages. The Examiner also finds that Ferrell teaches a multimedia publishing system that publishes web pages comprising various objects, and stores the objects in a data structure, such as an acyclic graph, which has nodes ordered by directed edges. The Examiner finds that Appellants have not provided evidence or persuasive argument to distinguish the claimed “edges being derived from at least one consistency constraint” from the directed edges of the acyclic graph taught by Ferrell, and concludes that the acyclic graph of Ferrell teaches the “consistency constraint” recited in claim 53. Ans. 39-42.

We agree with the Examiner. Appellants have not provided evidence or persuasive argument to distinguish claim 53 from the directed edges of the acyclic graph taught by Ferrell. Therefore, the acyclic graph of Ferrell teaches the “consistency constraint” recited in claim 53.

We sustain the § 103(a) rejection of claim 53. Appellants have not provided arguments for separate patentability of claims 55-60 and 75-81, therefore, claims 55-60 and 75-81 fall with claim 53.

CONCLUSIONS OF LAW

(1) Appellants have not shown that the Examiner erred in finding that Darnell describes “partitioning at least some of the plurality of objects into a plurality of groups such that if two compound objects are constructed from at least one common changed fragment, then the compound objects are placed in the same group” as recited in claim 16.

(2) Appellants have not shown that the Examiner erred in finding that the combination of Darnell, Ferrell, and Cormen teaches “at least some of the edges being derived from at least one consistency constraint” as recited in claim 53.

DECISION

The rejection of claims 16, 17, 42, and 43 under 35 U.S.C. § 102(a) as being anticipated by Darnell is affirmed.

The rejection of claims 18, 19, 44, and 45 under 35 U.S.C. § 103(a) as being unpatentable over Darnell is affirmed.

The rejection of claims 20-22 and 46-48 under 35 U.S.C. § 103(a) as being unpatentable over Darnell and Ferrell is affirmed.

The rejection of claims 23-26, 49-53, 55-60, and 75-81 under 35 U.S.C. § 103(a) as being unpatentable over Darnell, Ferrel, and Cormen is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED

msc

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